

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Kastner	Team: Squad #12	CCRB Case #: 201509650	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 11/08/2015 3:56 AM	Location of Incident: 165 West 48th Street	Precinct: 18	18 Mo. SOL 5/8/2017	EO SOL 5/8/2017	
Date/Time CV Reported Sun, 11/08/2015 4:51 AM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Fri, 11/13/2015 11:16 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Steven Cameron	01408	943043	MTN PCT
2. POM Gregory Dolan	14588	922270	MTN PCT
3. POM Robert Backiel	21740	950037	MTS PCT
4. Officers			
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Jeffrey Smith	5466	942918	MTS PCT
2. POM David Deblasio	22841	952646	MTN PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Steven Cameron	Discourtesy: Sergeant Steven Cameron spoke discourteously to § 87(2)(b)	
B.POM Gregory Dolan	Force: Police Officer Gregory Dolan used physical force against § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D.POM Robert Backiel	Abuse: Police Officer Robert Backiel interfered with § 87(2)(b)'s use of a recording device.	
E.SGT Steven Cameron	Discourtesy: Sergeant Steven Cameron spoke discourteously to § 87(2)(b) and § 87(2)(b)	
F.POM Robert Backiel	Discourtesy: Police Officer Robert Backiel spoke discourteously to § 87(2)(b)	
G. An officer	Abuse: An officer did not process § 87(2)(b)'s complaint regarding officers.	

Case Summary

On November 8, 2015, Sgt. Steven Cameron from the Midtown North Precinct called the IAB command center to report that while in police custody at that stationhouse, § 87(2)(b) § 87(2)(b) alleged that officers beat him up. That same day, § 87(2)(b) § 87(2)(b)'s girlfriend, arrived to the stationhouse to file this complaint, which was combined with § 87(2)(b) § 87(2)(b)'s complaint, and was received at the CCRB on November 13, 2015.

On November 8, 2015, § 87(2)(b) was celebrating his birthday at a club, located at West 48th Street and 7th Avenue in Manhattan, with § 87(2)(b) and a large group of friends, including § 87(2)(b) and § 87(2)(b). At approximately 3:56 p.m., numerous individuals were leaving the clubs in the area and congregating outside. § 87(2)(b) was temporarily separated from § 87(2)(b) but he soon located her and began walking toward her.

Several officers arrived to the scene, including Sgt. Cameron, PO Gregory Dolan, PO David DeBlasio, all from the Midtown North Precinct, and PO Robert Backiel from the Midtown South Precinct. Sgt. Cameron allegedly told § 87(2)(b) something to the effect of “get the fuck over here” (**Allegation A**). PO Dolan placed § 87(2)(b) onto the hood of a nearby patrol car and then onto the ground (**Allegation B**), and unidentified officers allegedly used additional physical force against him (**Allegation C**). As § 87(2)(b) recorded the officers arresting § 87(2)(b) on her cell phone, PO Backiel knocked § 87(2)(b)'s phone out of her hands (**Allegation D**). Sgt. Cameron allegedly said to § 87(2)(b) and § 87(2)(b) “Who the fuck does it look like I am? Get the fuck outta here” (**Allegation E**). § 87(2)(b) alleged that when she asked PO Backiel where § 87(2)(b) was being taken, he replied, “Fuck you.” (**Allegation F**).

§ 87(2)(b) was arrested for § 87(2)(b), § 87(2)(a) 160.50 § 87(2)(b). He was transported to the Midtown North Precinct stationhouse. Soon after, § 87(2)(b) arrived to the stationhouse and told an unidentified officer that she wanted to file a complaint about what had happened at the initial scene. That officer allegedly refused to process § 87(2)(b)'s complaint (**Allegation G**).

This case was delayed due to personnel changes, uncooperative victims, issues identifying officers from multiple commands, and issues scheduling officer interviews. It was initially assigned to Supervising Investigator Nicholas Carayannis, but it was reassigned to Inv. Laura Kastner on December 8, 2015.

This case has video evidence, Snagit copies of which have been placed below. Please note that the original videos can be found at Board Review 01 and Board Review 02 and the transcriptions of these videos can be found at Board Review 03 and Board Review 04.

§ 87(2)(b)'s cell phone video (1 minute and 22 seconds long):



2016-04-26_10-58-45.mp4

ARGUS video depicting officers dispersing the crowd at the scene (39 seconds long):



201509650_20160427_1213_DM.mp4

Longer version of ARGUS video depicting officers dispersing the crowd and members of the crowd returning over the course of several minutes (9 minutes and 55 seconds long):



201509650_20160427_1316_DM.mp4

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of April 28, 2016, the Notice of Claim query with the NYC Comptroller's Office was pending (Board Review 05).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which [§ 87(2)(b)] (Board Review 10), [§ 87(2)(b)] (Board Review 01), [§ 87(2)(b)] (Board Review 12) and [§ 87(2)(b)] (Board Review 13) are participants.
- Sgt. Cameron, a nine-year-member-of-the-service, has six prior CCRB complaints, comprising a total of eight allegations, none of which were substantiated. Only one case was fully investigated and it involved a discourtesy allegation that was unsubstantiated.
- PO Gregory Dolan, a 17-year-member-of-the-service, has eight prior CCRB complaints, comprising a total of 12 allegations, none of which were substantiated. Of those allegations that were fully investigated, three allegations were unfounded, three were exonerated, and one was unsubstantiated. The only two physical force allegations in PO Dolan's CCRB history were truncated.
- PO Robert Backiel, a four-year-member-of-the-service, has two prior CCRB complaints, comprising a total of five allegations, none of which were substantiated. [§ 87(2)(g)] [REDACTED]
[REDACTED]

Potential Issues

- This incident occurred as various clubs were closing and numerous individuals were being let out into the street. Officers were called to the scene for crowd control and a melee involving at least three commands and several unidentified officers resulted.
- [§ 87(2)(b)] provided a brief phone statement on January 6, 2016 (Board Review 14) and she scheduled an in-person statement for January 14, 2016, but she failed to appear for that appointment. Between January 4, 2016 and January 19, 2016, five calls were placed to [§ 87(2)(b)] and two unreturned letters were mailed to her, but [§ 87(2)(b)] was uncooperative with this investigation.

- § 87(2)(b) provided a brief phone statement on January 4, 2016 (Board Review 15), but he stated that he did not wish to pursue a complaint about anything that happened to him during this incident and that he was too busy to provide an in-person statement.

Findings and Recommendations

Explanation of Subject Officer Identification

- Although § 87(2)(b) and § 87(2)(b) identified Sgt. Cameron as the officer who initially used physical force against § 87(2)(b) PO Dolan acknowledged being that officer and Sgt. Cameron corroborated this. § 87(2)(b) alleged that additional physical force was used against him, but he could not attribute specific actions to specific officers. § 87(2)(g)
- § 87(2)(b) identified PO Backiel as the officer who interfered with her using a recording device during this incident. She obtained PO Backiel's name at the Midtown North Precinct stationhouse following this incident. The IAB log (Board Review 16) confirms that § 87(2)(b) arrived to the stationhouse to file a complaint and that Sgt. Jeffrey Smith from the Midtown South Precinct was called to the stationhouse, reviewed the video footage, and identified PO Backiel, who was assigned to the same command as Sgt. Smith, as the officer who knocked § 87(2)(b)'s phone out of her hand. § 87(2)(g)
- The video footage depicts audio of an officer speaking discourteously. Although the officer is not visible, § 87(2)(b) alleged that the officer was Sgt. Cameron and that he was speaking to § 87(2)(b) and § 87(2)(b) § 87(2)(g)
- § 87(2)(b) alleged that the officer who knocked § 87(2)(b)'s phone out of her hand was the officer who spoke discourteously to her. § 87(2)(g)
- § 87(2)(b) also alleged that an officer refused to process her complaint against officers at the Midtown North Precinct stationhouse. She described that officer as a white man in his 40s, approximately 6'3" tall, 240 pounds, bald, and dressed in plainclothes. PO Dolan was the only officer who acknowledged speaking to § 87(2)(b) identified via investigation, at the stationhouse, but he denied that she tried to file a complaint. Additionally, PO Dolan is not bald. Without further clarification from § 87(2)(b) it remains unclear which officer refused to process her civilian complaint. § 87(2)(g)

Allegation not pled

- **Force:** § 87(2)(b) alleged that after PO Backiel knocked § 87(2)(b)'s phone out of her hand, he pushed § 87(2)(b) against the patrol car and threw him inside, but neither § 87(2)(b) the victim, nor § 87(2)(b) alleged this, and nothing suggesting that this occurred is depicted in the video. § 87(2)(g)

Allegation A -Discourtesy: Sergeant Steven Cameron spoke discourteously to § 87(2)(b)

§ 87(2)(b) (Board Review 17) said that when he exited the club, he was separated from § 87(2)(b) and that there was a lot of commotion going on around him. He saw her back

in the direction from which he had come and he began walking toward her. He alleged that at that point, Sgt. Cameron ordered him to “come here” and that when § 87(2)(b) said no, Sgt. Cameron said something to the effect of “get the fuck over here.”

In § 87(2)(b)'s CCRB interview (Board Review 18), she stated that a large group of individuals who she did not know were verbally arguing amongst themselves outside, but she told IAB (Board Review 19) that she and § 87(2)(b) were involved in that argument, although she said that they walked away prior to officers arriving to the scene. § 87(2)(b) walked back toward where the argument occurred to help a friend find her missing cell phone and became separated from § 87(2)(b). When § 87(2)(b) found her again, he turned and walked back toward her. It was at this point that Sgt. Cameron ordered § 87(2)(b) to “come here” five or six times.

Sgt. Cameron (Board Review 20) denied making the alleged discourteous statement and no officer interviewed acknowledged hearing him or any other officer do so.

§ 87(2)(b) was out celebrating his birthday and he acknowledged consuming several alcoholic beverages over the hours leading up to this incident, including one Long Island Iced Tea, an unknown amount of Crown Royal whiskey, and three Fireball shots. § 87(2)(b) said he felt “woozy” during this incident and attributed his lack of memory regarding pertinent aspects (see Allegation B) to his alcohol consumption. § 87(2)(b) said she only consumed three alcoholic beverages prior to this incident, including one beer and one shot, and that she was right next to § 87(2)(b) at the time Sgt. Cameron was addressing him, but that Sgt. Cameron ordered § 87(2)(b) to “come here,” not “Get the fuck over here.”

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B – Force: Police Officer Gregory Dolan used physical force against § 87(2)(b)

The shorter ARGUS video footage depicts a large and rowdy crowd being dispersed up the block and the longer version depicts the crowd slowly trickling back from the direction they were moved from. § 87(2)(b)'s cell phone video depicts officers standing around § 87(2)(b) who is not initially visible, but is then seen being stood up, placed inside of a patrol car, and escorted from the scene. No physical force is depicted in any of the video footage.

§ 87(2)(b) alleged that he was thrown onto the ground and that additional physical force was used against him, although due to alcohol consumption, he could not recall what physical force was used against him. He stated that after watching § 87(2)(b) cell phone video, he recalled an officer placing their knee or leg against the left side of his face as his right side made contact with the concrete, although this is not visible in the video.

§ 87(2)(b) and § 87(2)(b) alleged that Sgt. Cameron threw § 87(2)(b) onto the hood of a patrol car and that he was then pushed onto the ground, where a group of officers got on top of him. § 87(2)(b) said that § 87(2)(b)'s friends tried to pull him away from the officers, but that they were unsuccessful. § 87(2)(b) alleged that when he walked past § 87(2)(b) he saw him on the ground and approximately five to seven unidentified officers who § 87(2)(b) could not describe were hitting § 87(2)(b) all over his body. § 87(2)(b) curled up and tried to protect his face with his arms, but he did nothing to resist. § 87(2)(b) did not see what led up to this interaction.

PO Dolan (Board Review 21) said that when he arrived to the scene in response to a report of a large disorderly crowd, approximately 40 officers were already present. PO Dolan immediately assisted with dispersing the crowd of seemingly intoxicated individuals, but the group kept returning to the scene. § 87(2)(b) was the most vocal member of the group. When he returned and pushed past an unidentified officer in the direction of additional officers, unidentified officers ordered § 87(2)(b) to stop and other individuals who were with § 87(2)(b) attempted to hold him back, which led PO Dolan to believe that § 87(2)(b) intended to fight the officers he was walking toward.

PO Dolan said he ordered § 87(2)(b) to go the other way, but § 87(2)(b) swatted PO Dolan's hand out of the way and continued walking. PO Dolan told § 87(2)(b) that he was under arrest. He grabbed § 87(2)(b)'s arm and § 87(2)(b) attempted to spin around to face PO Dolan. PO Dolan pushed § 87(2)(b)'s back so that § 87(2)(b)'s chest was placed on the hood of a patrol car, although PO Dolan denied that this was a "slamming" action. § 87(2)(b)'s head did not make contact with the car. PO Dolan ordered § 87(2)(b) to put his hands behind his back, but § 87(2)(b) failed to comply.

An unidentified officer approached and helped PO Dolan attempt to grab § 87(2)(b)'s arms, but § 87(2)(b) kept them tucked under his body. PO Dolan decided to bring § 87(2)(b) to the ground, but when he and the unidentified officer initiated this plan, § 87(2)(b)'s weight shifted, causing PO Dolan and the unidentified officer to fall to the ground with § 87(2)(b). At that point, PO Dolan was injured and Sgt. Cameron and two unidentified officers approached. PO Dolan held § 87(2)(b)'s shoulders against the ground as unidentified officers pulled his arms behind his back, held his legs down because he was kicking, and handcuffed him. PO Dolan denied witnessing any additional physical force be used against § 87(2)(b) who was stood up and transported from the scene.

Sgt. Cameron said that when he arrived to the scene, he observed a group of about 20 individuals comprised of two groups screaming at each other about something that had happened inside of a club. The crowd was pushing and shoving, although Sgt. Cameron noted that the fight was more verbal than physical. The officers dispersed the crowd, but the group soon returned.

Sgt. Cameron said he heard a loud bang and turned around to see that PO Dolan had placed § 87(2)(b) against the hood of a patrol car. § 87(2)(b) somehow ended up on the ground, but Sgt. Cameron could not recall how. Sgt. Cameron ran over to assist along with additional officers. He held § 87(2)(b)'s legs as the other officers also attempted to grab § 87(2)(b)'s legs and his arms. § 87(2)(b) who never became compliant and appeared highly intoxicated, flailed his arms, kicked his legs, and threw punches, although Sgt. Cameron was unsure whether he struck an officer. § 87(2)(b) was handcuffed without the use of any additional physical force.

PO Backiel and PO DeBlasio denied participating in or witnessing any physical force against § 87(2)(b).

It is undisputed that § 87(2)(b) sustained a bruise/swelling below his right eye on the incident date. During his CCRB interview, § 87(2)(b) said that he sustained a headache, scrapes, bruising, and swelling to the right side of his face, a scratch underneath his neck, pain in his right shoulder, and an inability to open his jaw for the three days following this incident. § 87(2)(b) said she lost sight of § 87(2)(b) once he was placed on the ground, but that when she later saw him at the stationhouse, he had a mark below his eye that was slightly cut open. PO Dolan acknowledged seeing § 87(2)(b)'s facial injury, but he said he observed it prior to § 87(2)(b).

Allegation D – Abuse of Authority: Police Officer Robert Backiel interfered with § 87(2)(b)'s use of a recording device.

At the 00:38 mark of the Snagit version of § 87(2)(b)'s cell phone video, the phone falls to the ground. Immediately prior to this, § 87(2)(b) approaches the patrol car containing § 87(2)(b) and comments that “This is what the racist ass cops do...one person for all y’all cops.” Immediately after the phone falls, § 87(2)(b) picks it up and states, “Are you serious? What a dickhead? You see what he doing? You see what he just did?” § 87(2)(b)'s female friend then states, “You owe her a new phone. Why [did] you drop her phone out [of] her hand? Why did you drop her phone? Why did you drop her phone out [of] her hand? Why did you just drop her phone out [of] her hand?”

§ 87(2)(b) alleged that as she recorded the incident on her cell phone and while holding the phone close to her face, PO Backiel, who was pacing back and forth at the scene, walked up to § 87(2)(b) and smacked her phone out of her hand with his open palm. Due to § 87(2)(b)'s face being in close proximity to her cell phone, PO Backiel's open palm also made contact with § 87(2)(b)'s face, although she sustained no injury as a result of this. § 87(2)(b) said she picked her phone up and followed PO Backiel on screen to document his identity and that he is the sole officer visible at the 00:49 mark of the Snagit version of the video (at the 00:51 mark of the full version). § 87(2)(b) also stated that PO Backiel was not involved in § 87(2)(b)'s arrest.

During his CCRB interview, PO Backiel identified himself as the officer § 87(2)(b) referenced as being visible at the 00:49 mark of the video, but he denied knocking her phone out of her hand or witnessing this aspect of the incident at all, despite his close proximity to § 87(2)(b) at the time that this occurred. However, as detailed above in the Explanation of Subject Officer Identification section, Sgt. Jeffrey Smith from the Midtown South Precinct was called to the Midtown North Precinct stationhouse following this incident to review § 87(2)(b)'s video. After doing so, Sgt. Smith called the IAB command center and stated that “he interviewed § 87(2)(b) and reviewed the video in which he identified PO Backiel tax #950037 (014) as the officer that smacked § 87(2)(b)'s phone out of her hand.”

Officers must not interfere with the videotaping or the photographing of incidents in public places. NYPD Patrol Guide, Section 212-49 (Board Review 25).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Discourtesy: Sergeant Steven Cameron spoke discourteously to § 87(2)(b) and § 87(2)(b)

At the 00:56 mark of the Snagit version of § 87(2)(b)'s cell phone video, a male voice is heard saying, “Who the fuck does it look like I am? Get the fuck outta here.” The person that the voice belongs to is not visible on camera, but § 87(2)(b) alleged that it was Sgt.

Cameron. However, Sgt. Cameron denied making the discourteous statement and no officer interviewed acknowledged hearing him or any other officer do so.

Additionally, § 87(2)(b) said that Sgt. Cameron was speaking to § 87(2)(b) and § 87(2)(b) but they were both uncooperative with the investigation further than providing phone statements. § 87(2)(b) made no mention of any discourteous language during his phone statement and during her phone statement, § 87(2)(b) alleged that PO Backiel made a different discourteous statement toward her (see Allegation F), but that no additional discourteous language was used by any officer during this incident.

§ 87(2)(g)

Allegation F – Discourtesy: Police Officer Robert Backiel spoke discourteously to

§ 87(2)(b)

Allegation G – Abuse of Authority: An officer did not process § 87(2)(b)'s complaint regarding officers.

During her phone statement, § 87(2)(b) alleged that when she asked PO Backiel where § 87(2)(b) was being taken, PO Backiel replied, “Fuck you” and told her to figure it out herself. She said that § 87(2)(b) was with her at the time, but § 87(2)(b) did not allege that PO Backiel used profanity during this incident. § 87(2)(b) further alleged that when she arrived at the Midtown North Precinct stationhouse and informed an unidentified officer that she wished to file a complaint about what had transpired at the initial scene, that officer told § 87(2)(b) that she could not file a complaint, and that she did not need to file a complaint because the officers already knew what happened since they had been there. Neither § 87(2)(b) nor § 87(2)(b) was present to witness this interaction. § 87(2)(g)

Squad: # 12

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date